

EXHIBIT A

FILED UNDER SEAL

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SINGULAR COMPUTING LLC,
Plaintiff,
v.
GOOGLE LLC,
Defendant.

Civil Action No. 1:19-cv-12551 FDS
Hon. F. Dennis Saylor IV

**DEFENDANT GOOGLE LLC'S NOTICE TO
PLAINTIFF OF SPECIFIC UNMARKED PRODUCTS UNDER
ARCTIC CAT INC. V. BOMBARDIER RECREATIONAL PRODUCTS INC.**

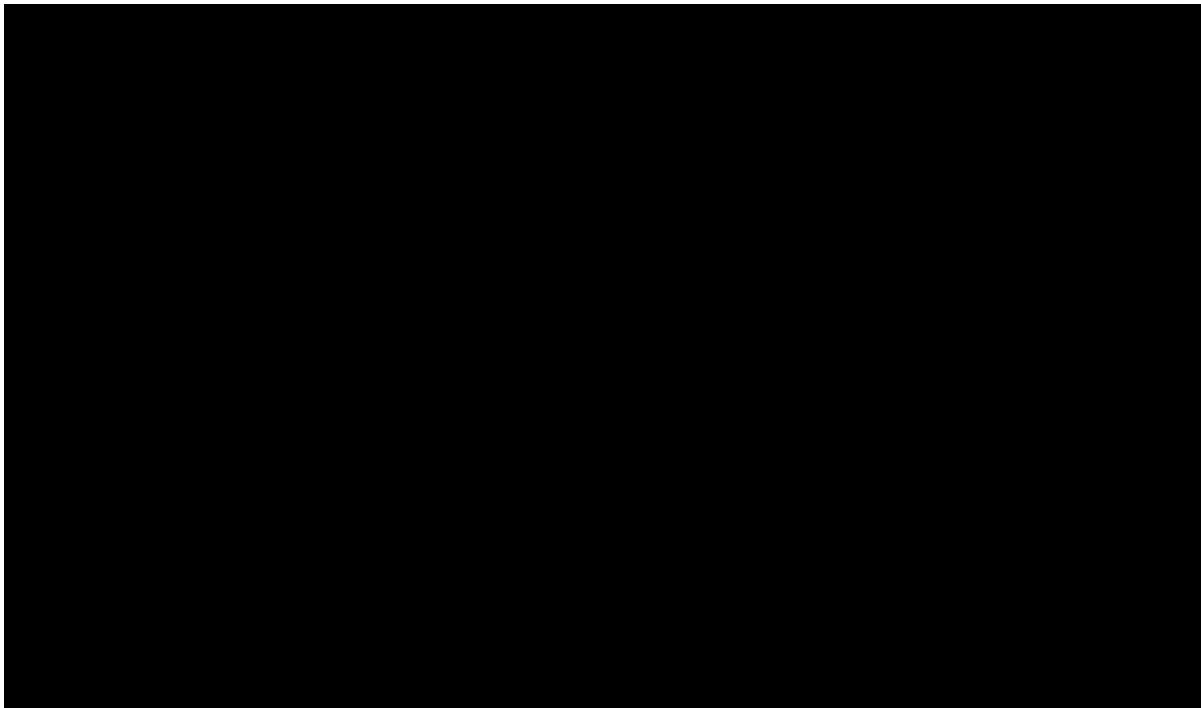
On July 21, 2023, Plaintiff Singular Computing LLC (“Singular”) served an exhibit list disclosing its intent to use at trial “Physical Samples: S1 chip and S1 computer” (the “S1”), identified as STX 796. After multiple requests by counsel for Defendant Google LLC (“Google”), Singular agreed on September 20, 2023, to “make STX 796 available for inspection,” which Google’s counsel undertook on September 29, 2023, and which revealed for the first time that the S1 was not marked in accordance with 35 U.S.C. § 287. On November 1, 2023, Dr. Joseph Bates confirmed in a deposition that the unmarked physical samples made available for inspection, STX 796, were in fact representative of boards that were shown and offered in commercial transactions to third parties.

In *Arctic Cat Inc. v. Bombardier Recreational Products Inc.*, 876 F.3d 1350 (Fed. Cir. 2017), the U.S. Court of Appeals for the Federal Circuit held that an accused infringer who challenges the patentee’s compliance with 35 U.S.C. § 287 bears only “an initial burden of production to articulate the products it believes are unmarked ‘patented articles’ subject to § 287.” *Arctic Cat*, 876 F.3d at 1368. The Federal Circuit further held that, to discharge this burden, the accused infringer “need only put the patentee on notice” of “specific unmarked products which the alleged infringer believes practice the patent.” *Id.*

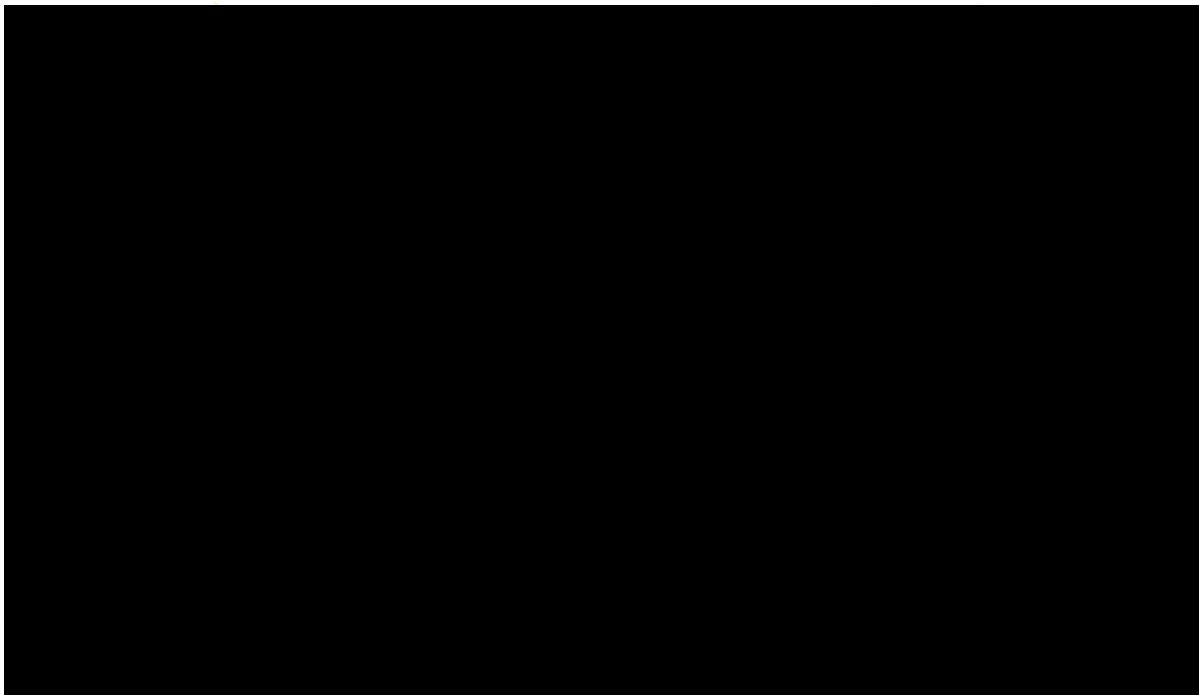
In accordance with this authority, and to discharge its initial burden of production, Google serves Singular with this Notice to Plaintiff of Specific Unmarked Products Under *Arctic Cat Inc. v. Bombardier Recreational Products Inc.*, thereby putting Singular on notice that the following product(s) may be unmarked “patented article[s]” for which Singular bears the burden of proving compliance with Section 287.

U.S. Patent Nos. 8,407,273 and 9,218,156:

- Singular’s S1, including what Singular refers to as the “S1 chip” and/or “S1 computer,” shown below in photos taken during Google’s inspection of physical samples of the S1 on September 29, 2023:







Dated: November 2, 2023

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